IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 12TH SEPTEMBER 2007 / 21ST BHADRA 1929

Bail Appl..No. 5499 of 2007()

[CR.NO.3/2005 OF PATHANAPURAM EXCISE RANGE]

PETITIONER/ACCUSED

RANNI, S/O.PONNAMMA, AGED 28,
RESIDING AT RENNALAYAM, THALAPANAMKULAM,
PERAVANTHURE VILLAGE, PATHANAPURAM TALUK,
KOLLAM DISTRICT.

BY ADV. SRI.HARISH GOPINATH

RESPONDENTS: COMPLAINANT

STATE OF KERALA, REPRESENTED BY
EXCISE INSPECTOR, EXCISE RANGE OFFICE,
PATHANAPURAM, PUNALUR, THROUGH PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 12/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

B.A.No.5499 of 2007

Dated this the 12th day of September 2007

O R D E R

Application for anticipatory bail. The petitioner faces allegations under the Kerala Abkari Act. He was allegedly engaged in the act of keeping in his possession 3 litres of arrack for sale. Seeing the excise party who, on receipt of prior information, came to the scene of the crime, he allegedly abandoned the articles and took to his heels. The seizure was effected by the excise party. In the seizure mahazer as well as in the occurrence report prepared on 12/01/2005, the name and details of the petitioner are clearly given. Such name and details were allegedly ascertained from the persons who were present locally at the time when the excise party reached the scene of occurrence. The petitioner has not been arrested so far. Investigation is in progress. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the allegations are totally false. The petitioner's mother is a

political activist. Because of political animosity, the petitioner's name has been unnecessarily dragged into the controversy. The petitioner was not present. He has no criminal antecedents. The allegations raised against him are totally false and incorrect. The petitioner was always available in the locality. The excise officials had not ever attempted to arrest the petitioner. In these circumstances, anticipatory bail may be granted to the petitioner, it is prayed.

3. The learned Public Prosecutor opposes the application. The learned Public Prosecutor submits that there is no features in this case which would justify or warrant the invocation of the powers under Section 438 Cr.P.C. The detecting party had seen the petitioner run away from the scene of occurrence. His identity was ascertained from the persons who were present locally at that time. The excise officials have no animosity against the petitioner at all, as is evident from the fact that the petitioner has not been arrested so far. In any view of the matter, this is a fit case where the petitioner must appear before the investigating officer or the learned Magistrate having jurisdiction and then seek regular bail, submits the learned

Public Prosecutor.

4. Having considered all the relevant inputs, I find merit in the opposition by the learned Public Prosecutor. Considering the totality of the facts and circumstances, I have no reason to assume that the allegations against the petitioner are totally false and that such allegations are raised against him with any vexatious or oblique motives. This, I agree with the learned Public Prosecutor that, is a fit case where the petitioner must appear before the investigating officer or the learned Magistrate having jurisdiction and then seek regular bail in the normal and ordinary course.

5. In the result, this petition is dismissed. Needless to say, if the petitioner surrenders before the investigating officer or the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously.

(R.BASANT, JUDGE)

jsr

// True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007